



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4
ATLANTA FEDERAL CENTER
61 FORSYTH STREET
ATLANTA, GEORGIA 30303-8960

JAN 04 2018

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Tyler J. Danalds
Executive Director of Operations
Tennessee Department of Education
Andrew Johnson Tower, 10th Floor
710 James Robertson Parkway
Nashville, Tennessee 37243

SUBJECT: Notice of Opportunity to Show Cause

Dear Mr. Danalds:

On May 26, 2016, a representative of the Tennessee Department of Environment and Conservation (TDEC), on behalf of EPA, conducted an inspection at the Tennessee School for the Deaf (School) located at 2725 Island Home Boulevard, Knoxville, Tennessee 37920. The purpose of the inspection was to evaluate the School's compliance with Section 15 of the Toxic Substances Control Act (TSCA), 15 U.S.C. § 2614, and the Polychlorinated Biphenyl (PCB) regulations promulgated in 40 C.F.R. Part 761, in connection with renovation activities occurring at the TSD.

Based on observations and information obtained during the inspection described above, several areas of concern have been identified by the EPA. A Summary of Concerns is enclosed herewith.

Violations of Section 15 of TSCA are subject to an enforcement action pursuant to Section 16 of TSCA, 15 U.S.C. § 2615, which provides for the initiation of civil and/or criminal actions. Any person who violates Section 15 of TSCA may be assessed a penalty of up to \$38,114 for each such violation, in accordance with Section 16(a) of TSCA and pursuant to 40 C.F.R. Part 19. Each day a violation continues may constitute a separate violation.

Prior to initiating enforcement action, EPA is offering the Tennessee Department of Education (TN DOE), as the owner of the School, the opportunity to meet with EPA to show cause as to why EPA should not initiate enforcement action. During such meeting, TN DOE may provide any facts, documentation, information, or additional evidence that it believes will shed light on the alleged violations. Additionally, if the parties agree, the meeting may also serve as an opportunity to discuss settlement of this matter. EPA recommends that TN DOE review EPA's April 9, 1990, PCB Penalty Policy found at <https://www.epa.gov/pcbs> prior to this Show Cause meeting.

If TN DOE wishes to meet in person with EPA, or to convene a conference call to discuss this matter, we request that you contact Kris Lippert, of the EPA Region 4 staff, at (404) 562-8605 within ten (10) days of receipt of this letter. If we do not hear from you in that time, we will assume that TN DOE does not wish to accept our offer to meet or have a conference call or to enter into settlement negotiations with EPA at this time.

Sincerely,

A handwritten signature in black ink, appearing to read "Larry L. Lamberth", with a stylized flourish at the end.

Larry L. Lamberth
Chief, Enforcement and Compliance Branch
Resource Conservation and Restoration Division

Enclosure

cc: Adrienne White, TDEC

ENCLOSURE

Summary of Concerns

Based on the results of an inspection conducted by TDEC at the Tennessee School for the Deaf (School), on May 26, 2016, the EPA has determined that the Tennessee Department of Education (TN DOE) may have violated the Toxic Substances Control Act (TSCA), 15 U.S.C. § 2614, and the PCB regulations promulgated at 40 C.F.R. Part 761, as described herein. The School is located at 2725 Island Home Boulevard, Knoxville, Tennessee 37920.

Tennessee General Services (TGS) manages and runs capital projects under the Real Estate Asset Management (STREAM) program for the Tennessee Department of Education. At the time of the inspection, the School was undergoing a capital project involving demolition and renovation, including the construction of a new high school and infrastructure upgrades under the direction of TGS.

During the inspection, the School was unable to provide written annual document logs including an inventory of PCB items, annual records, PCB inspections, copies of manifests and Certificates of Disposal for the last 3 years. The School did not have an EPA Identification number for generating PCB waste or did it register any PCB Transformers with EPA.

Based on a review of the TDEC inspection report, and follow up investigation, the EPA has identified a number of concerns and potential violations pertaining to the School's handling, management, inspections, maintenance and disposal of PCB items, including PCB Transformers (containing >500 ppm PCBs) and PCB-Contaminated Transformers (containing ≥50 ppm but ≤500 ppm PCBs), and other transformers (discussed below) for which TN DOE has not provided complete information, before, during and after the demolition/renovation activities at the School. These concerns are summarized below.

In early 2016, during the demolition of Poore Hall, E. Luke Greene (ELG), a subcontractor hired by Retenbach Constructors, the general contractor, to demolish Poore Hall, removed one (1) Westinghouse Inerteen PCB Transformer (Serial Number 654384Z) containing 116 gallons of PCB-contaminated oil from the School and transported it to ELG's outside gravel storage yard located at 10909 McBride Lane, Knoxville, Tennessee 37923. On May 11, 2016, a leak in this PCB Transformer was noticed at ELG's storage yard and was reported to the National Response Center. This PCB Transformer was sampled by Ensafe, a contractor for TGS, and determined to contain 1,390,000 parts per million (ppm) PCBs. The PCB Transformer and the PCB oil was sent to Waste Management in Emelle, Alabama on July 8, 2016, for disposal. TGS provided EPA with the hazardous waste manifest for the PCB Transformer (#003150533GBF). The manifest stated that the out-of-service date was November 27, 2014. The out-of-service date is also documented on a chart that was prepared by the TN DOE and later submitted to the EPA.

The School also had a 500 KVA General Electric pad mount PCB-Contaminated Transformer (Serial Number F531914-65P), containing 187 gallons of oil contaminated with 342 ppm of PCBs on-site at one time. The out of service date for this PCB-Contaminated Transformer was October 2014. After the inspection, the School provided a Certificate of Disposal for this transformer dated of March 9, 2015, but the hazardous waste manifest was missing.

Additionally, a third PCB Transformer (Serial Number NA6748791) filled with Askarel was sampled on February 9, 2015, by Weidmann Electrical Technology for Bass Services and shown to have a PCB concentration of 723.907 ppm as indicated in the School's paperwork reviewed by TDEC during the inspection, but no other documentation for this PCB Transformer has been found.

According to the August 2, 2011, Hazardous Materials Survey Report prepared by Quantum Environmental & Engineering Services, LLC, on behalf TGS, one (1) large transformer that serviced Cottage E was located in the ground floor mechanical room (Room 17). The label indicated that it was a Westinghouse Inerteen transformer that held 128 gallons. No other documentation for this PCB Transformer has been found.

The October 21, 2014 Hazardous Materials Survey Report prepared by Ensafé stated that one pad-mounted transformer located in Electrical Room 28 of Poore Hall Building was "suspect for PCBs." The September 8, 2015, Hazardous Materials Survey Report prepared by Ensafé stated that one pad-mounted transformer located exterior of the Central Dining Hall Building 417 was "suspect for PCBs." No other documentation for this PCB Transformer has been found.

In 2017, TN DOE provided EPA with a list of transformers that they believe were on-site. There were 3 transformers on the list that must be presumed to be PCB Transformers (containing ≥ 500 ppm PCBs) under the "assumption" criteria set out in 40 C.F.R. § 761.2. TN DOE has not provided any other information on the following transformers, except they were taken out of service on 10/2014:

1. COOP 300 KVA Pad Mount; Serial # 12004066 installed around 1951 at Jones Vocational;
2. 50 KVA Pad Mount installed around 1974 at Akin Health and PE; and
3. 50 KVA Pad Mount installed around 1974 at Akin Health and PE.

Based on the results of the TDEC inspection and a review of all documents and information available to date, the EPA believes that TN DOE may have violated the following requirements of the PCB regulations:

I. Failure to dispose of PCB waste within 1-year from the date it was determined to be a PCB waste and the decision was made to dispose of it

40 C.F.R. § 761.65(a)(1) requires that any PCB waste be disposed of as required by Subpart D of this part within 1-year from the date it was determined to be PCB waste and the decision was made to dispose it. As noted above, the hazardous waste manifest #003150533GBF for the Westinghouse Inerteen PCB Transformer, Serial Number 654384Z, stated that the transformer was taken out of service on November 27, 2014, transported to ELG's facility in early 2016, and shipped from there to Waste Management for disposal on July 8, 2016, which was more than 1 year after the transformer was determined to be PCB waste and a decision was made to dispose of it, date of disposal. Therefore, the EPA alleges that TN DOE may have violated 40 C.F.R. § 761.65(a)(1).

II. Failure to inspect PCB transformers for leaks at least once every 30 days and failure

to maintain records of the inspections

40 C.F.R. § 761.65(c)(5) requires PCB Items in storage for disposal to be checked for leaks at least once every 30 days. 40 C.F.R. § 761.180(a) requires that records of inspections, maintenance, cleanup and disposal must be maintained. During TDEC's inspection at the School no records or other evidence was presented to TDEC demonstrating that monthly inspections of the PCB Transformers and PCB-Contaminated Transformers had been conducted. Therefore, the EPA alleges that TN DOE may have violated 40 C.F.R. § 761.65(c)(5) and 40 C.F.R. § 761.180(a).

III. Failure to develop and maintain annual records and written annual document logs

40 C.F.R. § 761.180(a) requires each owner or operator of a facility, other than a commercial storer or a disposer of PCB waste, using or storing at any one time at least 45 kilograms (99.4 pounds) of PCBs contained in PCB container(s), or one or more PCB transformers, or 50 or more PCB Large High or Low Voltage Capacitors shall develop and maintain at the facility, or a central facility provided that they are maintained at that facility, all annual records and the written annual document log of the disposition of PCB and PCB Items. During TDEC's inspection at the School annual document logs showing the disposition of PCBs and PCB Items were not being maintained by the School. Therefore, the EPA alleges that the Tennessee Department of Education may have violated 40 C.F.R. § 761.180(a).

IV. Failure to keep a copy of each Manifest

40 C.F.R. § 761.214(a)(1) requires generators to keep a copy of each manifest signed in accordance with 40 C.F.R. § 761.210(a) for three years or until the generator has received a signed copy from the designated facility which received the PCB waste. This signed copy must be retained as a record for at least three years from the date the waste was accepted by the initial transporter. A generator subject to annual document requirements under 40 C.F.R. § 761.180 shall retain copies of each manifest for the period required by § 761.180(a). The TN DOE has not provided a manifest for the following PCB and PCB-Contaminated Transformers listed above: (1) PCB-Contaminated Transformer (Serial #F531914-65P); (2) the PCB-Transformer (Serial # NA6748791); (3) the presumed PCB Transformers (located at Akin Health and PE and Jones Vocational); and (4) the "suspect PCB" Transformer located outside the Central Dining Hall. Therefore, the EPA alleges that the TN DOE may have violated 40 C.F.R. § 761.214(a)(1).

V. Failure to keep a copy of each Certificate of Disposal

40 C.F.R. § 761.218(d)(1) requires generators of PCB waste to keep a copy of each Certificate of Disposal that they receive from disposers of PCB waste among the records they retain under 40 C.F.R. § 761.180(a). The TN DOE has not provided evidence that it has kept among its records the Certificates of Disposal for the PCB-Transformer (Serial # NA6748791), the presumed PCB Transformers (located at Akin Health and PE and Jones Vocational) and the "suspect PCB" Transformer located outside the Central Dining Hall.

Therefore, the EPA alleges that the TN DOE may have violated 40 C.F.R. § 761.218(d)(1).

V. Failure to obtain an EPA identification number for generating PCB waste

40 C.F.R. § 761.205(a)(2) requires all generators of PCB waste who first engage in PCB waste handling activities after February 5, 1990, to notify EPA of their PCB waste activities by filing EPA Form 7710-53 with EPA prior to engaging in PCB waste handling activities. The TN DOE did not notify the EPA of its PCB waste handling activities at the School, and therefore, the EPA alleges that the TN DOE may have violated 40 C.F.R. § 761.205(a)(2).

VI. Failure to register PCB Transformers

40 C.F.R. § 761.30(a)(1)(v)(A) requires no later than December 28, 1998, all owners of PCB Transformers, including those in storage for reuse, to register their transformers with the Environmental Protection Agency, National Program Chemicals Division, Office of Pollution Prevention and Toxics (7404), 1200 Pennsylvania Avenue, NW., Washington DC 20460. The EPA has seen no evidence showing that the TN DOE registered its PCB transformers with EPA. Therefore, the EPA alleges that the TN DOE may have violated 40 C.F.R. § 761.30(a)(1)(v)(A).



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REDACTED

JAN 11 2018

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Ms. Arianne Turnbull
Baker & Associates, Inc.
1400 N 6TH Avenue Suite D6
Knoxville, Tennessee 37917-6043

SUBJECT: Notice of Opportunity to Show Cause

Dear Ms. Turnbull:

Based on the results of inspections and visits conducted by the Tennessee Department of Environment and Conservation (TDEC) at Tennessee General Services, the Tennessee School for the Deaf, and Bass Services, the EPA has determined that Tennessee General Services, Merit Construction, Bass Services, Baker & Associates, d/b/a Bass Services, and Baker & Associates, Inc. may have violated the Toxic Substances Control Act (TSCA), 15 U.S.C. § 2614, and the Polychlorinated Biphenyl (PCB) regulations promulgated at 40 C.F.R. Part 761. The Summary of Potential Violations is enclosed herewith.

Violations of Section 15 of TSCA are subject to an enforcement action pursuant to Section 16 of TSCA, 15 U.S.C. § 2615, which provides for the initiation of civil and/or criminal actions. Any person who violates Section 15 of TSCA may be assessed a penalty of up to \$38,114 for each such violation in accordance with Section 16(a) of TSCA and pursuant to 40 C.F.R. Part 19. Each day a violation continues may constitute a separate violation.

Prior to initiating an enforcement action, the EPA is offering each addressee of this letter the opportunity to meet in person, or conduct a conference call with the EPA to show cause as to why the EPA should not initiate enforcement action for violations of TSCA and the PCB regulations. During such meeting or conference call, you and/or your representative(s) may provide any facts, documentation, information, or additional evidence that you believe will shed light on the alleged potential violations. Additionally, if the parties agree, the meeting may also serve as an opportunity to discuss settlement of this matter. The EPA recommends that you review EPA's April 9, 1990, PCB Penalty Policy found at <https://www.epa.gov/pcbs> prior to attending any Show Cause meeting.

If you wish to meet in person, or together with the other subject entities, with the EPA, or to convene a conference call to discuss this matter, we request that you contact Kris Lippert, of EPA Region 4 staff, at (404) 562-8605 or lippert.kristin@epa.gov within ten (10) days of receipt of this letter. If we do not hear from you in that time, we will assume that Bass Services, Baker & Associates, d/b/a Bass Services, and

Baker & Associates, Inc. do not wish to accept our offer to meet or have a conference call or to enter into settlement negotiations with EPA at this time.

Sincerely,

A handwritten signature in black ink, appearing to read "Larry L. Lamberth", with a stylized flourish at the end.

Larry L. Lamberth
Chief, Enforcement and Compliance Branch
Resource Conservation and Restoration Division

Enclosure

cc: Adrienne White - TDEC
Laura Gray Waynick - TN STREAM
Bruce Bosse - Merit Construction

ENCLOSURE

REDACTED

Summary of Concerns

Based on the results of inspections and a visit conducted by TDEC at TN General Services, the Tennessee School for the Deaf ("School"), and Bass Services, the EPA has determined that TN General Services, Merit Construction, Bass Services, Baker & Associates d/b/a Bass Service, and Baker & Associates, Inc. (the "parties") may have violated the Toxic Substances Control Act (TSCA), 15 U.S.C. § 2614, and the PCB regulations promulgated at 40 C.F.R. Part 761, as described herein.

According to information provided to the EPA, the State of Tennessee Department of Education via the Contracting Agency the Department of General Services, and Merit Construction, Inc.,

School:

, for the demolition, renovation and construction at the

New High School & Infrastructure Upgrades – Phase I
Tennessee School for the Deaf
Knoxville, Tennessee
SBC Project No. 168/007-01-2013-01

In turn, Merit Construction, with Bass Services for work at the School located at 2725 Island Home Boulevard, Knoxville, Tennessee 37920. In connection with the work performed by Bass under the contract, Bass Services removed a 240-gallon Askarel Standard Transformer (Serial #MET-2256) from the School sometime after May 27, 2014, but before February 2, 2017. Bass Services transported this transformer to its facility at 531 N Sixth Avenue, Knoxville, Tennessee and stored the transformer on a gravel parking lot that was not secure from access to trespassers or others. Subsequently, on May 15, 2017, TN General Services shipped the PCB Transformer and the PCB oil to TCI in Pell City, Alabama for disposal.

Based on the foregoing, the EPA has determined that one or more or all of the parties may have violated the following PCB requirements:

I. Offering PCB waste to a transporter, disposer, or commercial storer of PCB waste who have not received an EPA identification number.

40 C.F.R. § 761.202(b)(1)(ii) prohibits a generator from offering PCB waste to transporters, disposers, or commercial storers of PCB waste who have not received an EPA identification number. Bass Services, transported one (1) 240 gallon Askarel Standard PCB Transformer (Serial #MET-2256) from the School to its Bass Services facility located at 531 N Sixth Avenue, Knoxville, Tennessee and stored it there without first receiving an EPA identification number. Therefore, the EPA alleges that one or more of the parties may have violated 40 C.F.R. § 761.202(b)(1)(ii).

II. Failure to obtain an EPA identification number before transporting PCB waste

40 C.F.R. § 761.202(b)(2)(i) prohibits transportation of PCB waste without having received an EPA identification number from EPA. Bass Services transported one (1) 240 gallon Askarel Standard Transformer (Serial #MET-2256) from the School to its facility located at 531 N Sixth Avenue, Knoxville, Tennessee, without first obtaining an EPA identification number. Therefore, the EPA alleges that one or more of the parties may have violated 40 C.F.R. § 761.202(b)(2)(i).

Exemption 4 Confidential Business Information (CBI)

Exemption 4 Confidential Business Information (CBI)

III. Failure to obtain an EPA identification number before commercial storage of PCB waste

40 C.F.R. § 761.202(b)(3) prohibits commercial storage of PCB waste without having received an EPA identification number from EPA. Bass Services stored one (1) 240 gallon Askarel Standard Transformer (Serial #MET-2256) at its facility located at 531 N Sixth Avenue, Knoxville, Tennessee, without first obtaining an EPA identification number. Therefore, the EPA alleges that one or more of the parties may have violated 40 C.F.R. § 761.202(b)(3).



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JAN 11 2018

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. Gary Stapleton
Branch Manager
E. Luke Green Company, Inc.
1090 McBride Lane
Knoxville, Tennessee 37923

SUBJECT: Notice of Opportunity to Show Cause

Dear Mr. Stapleton:

On May 26, 2016, representatives of the Tennessee Department of Environment and Conservation (TDEC), on behalf of the EPA, conducted an on-site inspection at the E. Luke Green Company (ELG) located at 10909 McBride Lane, Knoxville, Tennessee. The purpose of the inspection was to evaluate the site's compliance with Section 15 of the Toxic Substances Control Act (TSCA), 15 U.S.C. § 2614, and the Polychlorinated Biphenyl (PCB) regulations promulgated in 40 C.F.R. Part 761.

Based on observations and information obtained during the inspection described above, several areas of concern were observed by TDEC. The Summary of Concerns is enclosed herewith.

Violations of Section 15 of TSCA are subject to an enforcement action pursuant to Section 16 of TSCA, 15 U.S.C. § 2615, which provides for the initiation of civil and/or criminal actions. Any person who violates Section 15 of TSCA may be assessed a penalty of up to \$32,500 for each such violation occurring after March 15, 2004, in accordance with Section 16(a) of TSCA. For a violation occurring after January 12, 2009, a penalty of up to \$37,500 may be assessed pursuant to 40 C.F.R. Part 19. Each day a violation continues may constitute a separate violation.

Prior to initiating an enforcement action, the EPA is offering ELG the opportunity to meet with the EPA to show cause as to why the EPA should not initiate enforcement action. During such meeting, ELG may provide any facts, documentation, information, or additional evidence that it believes will shed light on the alleged violations. Additionally, if the parties agree, the meeting may also serve as an opportunity to discuss settlement of this matter. The EPA recommends that ELG review EPA's April 9, 1990, PCB Penalty Policy found at <https://www.epa.gov/enforcement/polychlorinated-biphenyls-pcb-penalty-policy> prior to this Show Cause meeting.

If you wish to meet in person, or together with the other subject entity, with the EPA, or to convene a conference call to discuss this matter, we request that you contact Kris Lippert, of EPA Region 4 staff, at (404) 562-8605 or lippert.kristin@epa.gov within ten (10) days of receipt of this letter. If we do not hear from you in that time, we will assume that ELG does not wish to accept our offer to meet or have a conference call or to enter into settlement negotiations with EPA at this time.

Sincerely,

A handwritten signature in black ink, appearing to read "Larry L. Lamberth", written in a cursive style.

Larry L. Lamberth
Chief, Enforcement and Compliance Branch
Resource Conservation and Restoration Division

Enclosure

cc: Elizabeth Warner - TDEC
Josephine Greene - E. Luke Green Company, Inc.

ENCLOSURE

Summary of Concerns

Based on the results of inspections conducted by TDEC at E. Luke Greene Company, Inc. (ELG) and at the Tennessee School for the Deaf ("School") located at 2725 Island Home Boulevard, Knoxville, Tennessee 37920, on May 26, 2016, the EPA has determined that ELG, Retenbach Constructors, and Tennessee Department of General Services (the "parties") may have violated the Toxic Substances Control Act (TSCA), 15 U.S.C. § 2614, and the PCB regulations promulgated at 40 C.F.R. Part 761, as described herein.

On July 2, 2015, the State of Tennessee Department of General Services (TN General Services) and Retenbach Constructors, Inc.,

New High School & Infrastructure Upgrades
Tennessee School for the Deaf
Knoxville, Tennessee
SBC Project No. 168/007-01-2013-05

Retenbach Constructors with ELG for demolition work at the School located at 2725 Island Home Boulevard, Knoxville, Tennessee 37920. During the demolition of the School's Poore Hall, ELG removed one (1) Westinghouse Inerteen PCB Transformer (Serial Number 654384Z) containing 116 gallons of oil from the School's facility in early 2016. ELG transported this PCB Transformer to its outside gravel storage yard at located at 10909 McBride Lane, Knoxville, Tennessee 37923. On May 11, 2016, a leak in this PCB Transformer was noticed and reported to the National Response Center. On March 20, 2016, the oil in this PCB Transformer was sampled by Ensafé, a contractor for TN General Services and determined to contain 1,390,000 parts per million (ppm) PCBs, thereby confirming that it was a PCB Transformer. The PCB Transformer and the PCB oil was sent to Waste Management in Emelle, Alabama on July 8, 2016, for disposal.

I. Offering PCB waste to a transporter, disposer, or commercial storer of PCB waste who have not received an EPA identification number.

40 C.F.R. § 761.202(b)(1)(ii) prohibits a generator from offering PCB waste to transporters, disposers, or commercial storers of PCB waste who have not received an EPA identification number. ELG transported one (1) 116 gallon Westinghouse Inerteen PCB Transformer (Serial Number 654384Z) from the School to its ELG facility located at 10909 McBride Lane, Knoxville, Tennessee 37923 and stored it for at least three (3) months without receiving an EPA identification number. Therefore, the EPA alleges that one or more of the parties may have violated 40 C.F.R. § 761.202(b)(1)(ii).

II. Failure to obtain an EPA identification number before transporting PCB waste.

40 C.F.R. § 761.202(b)(2)(i) prohibits transportation of PCB waste without having received an EPA identification number from EPA. ELG transported one (1) 116 gallon Westinghouse Inerteen PCB Transformer (Serial Number 654384Z) from the School to its ELG facility located at 10909 McBride Lane, Knoxville, Tennessee 37923 without obtaining an EPA identification number. Therefore, the EPA alleges that one or more of the parties may have violated 40 C.F.R. § 761.202(b)(2)(i).

III. Failure to obtain an EPA identification number before commercial storage of PCB waste.

40 C.F.R. § 761.202(b)(3) prohibits commercial storage of PCB waste without having received an EPA identification number from EPA. ELG stored one (1) 116 gallon PCB Westinghouse Inerteen Transformer (Serial Number 654384Z) at its facility located at 10909 McBride Lane, Knoxville, Tennessee 37923 for at least three (3) months, without an EPA identification number. Therefore, the EPA alleges that one or more of the parties may have violated 40 C.F.R. § 761.202(b)(3).

IV. Illegal disposal of PCB waste

40 C.F.R. § 761.50(a)(4) states that spills and other uncontrolled discharges of PCBs at concentrations of greater than or equal to 50 parts per million constitutes the disposal of PCBs and must be done in accordance with subpart D of this part. The 116 gallon Westinghouse Inerteen PCB Transformer (Serial Number 654384Z), stored in ELG's storage yard located at 10909 McBride Lane, Knoxville, Tennessee 37923, was noticed to be leaking on May 11, 2016. Because the PCB Transformer contained oil with PCB concentrations > 50 ppm, the spill and uncontrolled discharge constituted improper disposal of PCBs. Therefore, the EPA alleges that one or more of the parties may have violated 40 C.F.R. § 761.50(a)(4).



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REDACTED

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. Bruce Bosse
President/CEO
Merit Construction, Inc.
10435 Dutchtown Road
Knoxville, Tennessee 37932

SUBJECT: Notice of Opportunity to Show Cause

Dear Mr. Bosse:

Based on the results of inspections and visits conducted by the Tennessee Department of Environment and Conservation (TDEC) at Tennessee General Services, the Tennessee School for the Deaf, and Bass Services, the EPA has determined that Tennessee General Services, Merit Construction, Bass Services, Baker & Associates, d/b/a Bass Services, and Baker & Associates, Inc. may have violated the Toxic Substances Control Act (TSCA), 15 U.S.C. § 2614, and the Polychlorinated Biphenyl (PCB) regulations promulgated at 40 C.F.R. Part 761. The Summary of Potential Violations is enclosed herewith.

Violations of Section 15 of TSCA are subject to an enforcement action pursuant to Section 16 of TSCA, 15 U.S.C. § 2615, which provides for the initiation of civil and/or criminal actions. Any person who violates Section 15 of TSCA may be assessed a penalty of up to \$38,114 for each such violation in accordance with Section 16(a) of TSCA and pursuant to 40 C.F.R. Part 19. Each day a violation continues may constitute a separate violation.

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If you wish to meet in person, or together with the other subject entities, with the EPA, or to convene a conference call to discuss this matter, we request that you contact Kris Lippert, of EPA Region 4 staff, at (404) 562-8605 or lippert.kristin@epa.gov within ten (10) days of receipt of this letter. If we do not hear

from you in that time, we will assume that Merit Construction, Inc. does not wish to accept our offer to meet or have a conference call or to enter into settlement negotiations with EPA at this time.

Sincerely,

A handwritten signature in black ink, appearing to read "Larry L. Lamberth".

Larry L. Lamberth
Chief, Enforcement and Compliance Branch
Resource Conservation and Restoration Division

Enclosure

cc: Adrienne White - TDEC
Laura Gray Waynick - TN STREAM
Adrienne Turnbull - Baker & Associates
Baker & Associates d/b/a Bass Services
Bass Services

REDACTED

ENCLOSURE

Summary of Concerns

Based on the results of inspections and a visit conducted by TDEC at TN General Services, the Tennessee School for the Deaf ("School"), and Bass Services, the EPA has determined that TN General Services, Merit Construction, Bass Services, Baker & Associates d/b/a Bass Service, and Baker & Associates, Inc. (the "parties") may have violated the Toxic Substances Control Act (TSCA), 15 U.S.C. § 2614, and the PCB regulations promulgated at 40 C.F.R. Part 761, as described herein.

According to information provided to the EPA, the State of Tennessee Department of Education via the Contracting Agency the Department of General Services, and Merit Construction, Inc.,

for the demolition, renovation and construction at the

School:

New High School & Infrastructure Upgrades - Phase I
Tennessee School for the Deaf
Knoxville, Tennessee
SBC Project No. 168/007-01-2013-01

In turn, Merit Construction, with Bass Services for work at the Tennessee School for the Deaf located at 2725 Island Home Boulevard, Knoxville, Tennessee 37920. In connection with the work performed by Bass Services removed a 240-gallon Askarel Standard Transformer (Serial #MET-2256) from the School sometime after May 27, 2014, but before February 2, 2017. Bass Services transported this transformer to its facility at 531 N Sixth Avenue, Knoxville, Tennessee and stored the transformer on a gravel parking lot that was not secure from access to trespassers or others. Subsequently, on May 15, 2017, TN General Services shipped the PCB Transformer and the PCB oil to TCI in Pell City, Alabama for disposal.

Based on the foregoing, the EPA has determined that one or more or all of the parties may have violated the following PCB requirements: Exemption 4 Confidential Business Information (CBI)

I. Offering PCB waste to a transporter, disposer, or commercial storer of PCB waste who have not received an EPA identification number.

40 C.F.R. § 761.202(b)(1)(ii) prohibits a generator from offering PCB waste to transporters, disposers, or commercial storers of PCB waste who have not received an EPA identification number. Bass Services, transported one (1) 240 gallon Askarel Standard PCB Transformer (Serial #MET-2256) from the School to its Bass Services facility located at 531 N Sixth Avenue, Knoxville, Tennessee and stored it there without first receiving an EPA identification number. Therefore, the EPA alleges that one or more of the other parties may have violated 40 C.F.R. § 761.202(b)(1)(ii).

II. Failure to obtain an EPA identification number before transporting PCB waste

40 C.F.R. § 761.202(b)(2)(i) prohibits transportation of PCB waste without having received an EPA identification number from EPA. Bass Services transported one (1) 240 gallon Askarel Standard Transformer (Serial #MET-2256) from the Tennessee School for the Deaf to its facility located at 531 N Sixth Avenue, Knoxville, Tennessee, without first obtaining an EPA identification number. Therefore, the EPA alleges that one or more of the parties may have violated 40 C.F.R. § 761.202(b)(2)(i).

Exemption 4 Confidential Business Information (CBI)

III. Failure to obtain an EPA identification number before commercial storage of PCB waste

40 C.F.R. § 761.202(b)(3) prohibits commercial storage of PCB waste without having received an EPA identification number from EPA. Bass Services stored one (1) 240 gallon Askarel Standard Transformer (Serial #MET-2256) at its facility located at 531 N Sixth Avenue, Knoxville, Tennessee, without an EPA identification number. Therefore, the EPA alleges that one or more of the parties may have violated 40 C.F.R. § 761.202(b)(3).



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4
ATLANTA FEDERAL CENTER
61 FORSYTH STREET
ATLANTA, GEORGIA 30303-8960

JAN 11 2018

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

REDACTED

Ms. Laura Gray Waynick
Environmental Compliance Manager
State of Tennessee Real Estate Asset Management (STREAM)
Tennessee Tower, 24th Floor
312 Rosa L. Park Avenue
Knoxville, Tennessee 37243

SUBJECT: Notice of Opportunity to Show Cause

Dear Ms. Waynick:

On May 26, 2016, representatives of the Tennessee Department of Environment and Conservation (TDEC), on behalf of the EPA, conducted an on-site inspection at the E. Luke Green Company (ELG) located at 10909 McBride Lane, Knoxville, Tennessee and at the Tennessee School for the Deaf located at 2725 Island Home Boulevard, Knoxville, Tennessee 37920. The purpose of the inspections was to evaluate the facilities' compliance with Section 15 of the Toxic Substances Control Act (TSCA), 15 U.S.C. § 2614, and the Polychlorinated Biphenyl (PCB) regulations promulgated in 40 C.F.R. Part 761.

Based on observations and information obtained during the inspections described above, and subsequent investigations by the EPA, several areas of concern pertaining to compliance with the PCB regulations have been identified by the EPA. The Summary of Concerns is enclosed herewith.

Violations of Section 15 of TSCA are subject to an enforcement action pursuant to Section 16 of TSCA, 15 U.S.C. § 2615, which provides for the initiation of civil and/or criminal actions. Any person who violates Section 15 of TSCA may be assessed a penalty of up to \$38,114 for each such violation, in accordance with Section 16(a) of TSCA and pursuant to 40 C.F.R. Part 19. Each day a violation continues may constitute a separate violation.

Prior to initiating an enforcement action, the EPA is offering Tennessee General Services, Retenbach Constructors, and ELG the opportunity to meet with the EPA in person, or to hold a conference call to show cause as to why the EPA should not initiate enforcement action for the alleged non-compliance with the PCB regulations. During such meeting, you may provide any facts, documentation, information, or additional evidence that you believe will shed light on the alleged violations. Additionally, if the parties agree, the meeting or conference call may also serve as an opportunity to discuss settlement of this matter. The EPA recommends that you review EPA's April 9, 1990, PCB Penalty Policy found at <https://www.epa.gov/pebs> prior to this Show Cause meeting.

If you wish to meet in person, or together with the other subject entities, with the EPA, or to convene a conference call to discuss this matter, we request that you contact Kris Lippert, of EPA Region 4 staff, at (404) 562-8605 or lippert.kristin@epa.gov within ten (10) days of receipt of this letter. If we do not hear from you in that time, we will assume that the State of Tennessee Real Estate Asset Management (STREAM) does not wish to accept our offer to meet or have a conference call or to enter into settlement negotiations with EPA at this time.

Sincerely,



Larry L. Lamberth
Chief, Enforcement and Compliance Branch
Resource Conservation and Restoration Division

Enclosure

cc: Elizabeth Warner - TDEC
Steven Roznowski - Retenbach Constructors
Gary Stapleton - E. Luke Green Company, Inc.

ENCLOSURE

Summary of Concerns

Based on the results of inspections conducted by TDEC at E. Luke Greene Company, Inc. (ELG) and at the Tennessee School for the Deaf ("School") located at 2725 Island Home Boulevard, Knoxville, Tennessee 37920, on May 26, 2016, the EPA has determined that ELG, Rentenbach Constructors, and Tennessee Department of General Services (the "parties") may have violated the Toxic Substances Control Act (TSCA), 15 U.S.C. § 2614, and the PCB regulations promulgated at 40 C.F.R. Part 761, as described herein.

On July 2, 2015, the State of Tennessee Department of General Services (TN General Services) and Rentenbach Constructors, Inc.,

New High School & Infrastructure Upgrades
Tennessee School for the Deaf
Knoxville, Tennessee
SBC Project No. 168/007-01-2013-05

Rentenbach Constructors with ELG for demolition work at the School located at 2725 Island Home Boulevard, Knoxville, Tennessee 37920. During the demolition of the School's Poore Hall, ELG removed one (1) Westinghouse Inerteen PCB Transformer (Serial Number 654384Z) containing 116 gallons of oil from the School's facility in early 2016. ELG transported this PCB Transformer to its outside gravel storage yard at located at 10909 McBride Lane, Knoxville, Tennessee 37923. On May 11, 2016, a leak in this PCB Transformer was noticed and reported to the National Response Center. On March 20, 2016, the oil in this PCB Transformer was sampled by Ensaf, a contractor for TN General Services and determined to contain 1,390,000 parts per million (ppm) PCBs, thereby confirming that it was a PCB Transformer. The PCB Transformer and the PCB oil was sent to Waste Management in Emelle, Alabama on July 8, 2016, for disposal.

I. Offering PCB waste to a transporter, disposer, or commercial storer of PCB waste who have not received an EPA identification number.

40 C.F.R. § 761.202(b)(1)(ii) prohibits a generator from offering PCB waste to transporters, disposers, or commercial storers of PCB waste who have not received an EPA identification number. ELG transported one (1) 116 gallon Westinghouse Inerteen PCB Transformer (Serial Number 654384Z) from the School to its ELG facility located at 10909 McBride Lane, Knoxville, Tennessee 37923 and stored it for at least three (3) months without receiving an EPA identification number. Therefore, the EPA alleges that one or more of the parties may have violated 40 C.F.R. § 761.202(b)(1)(ii).

II. Failure to obtain an EPA identification number before transporting PCB waste.

40 C.F.R. § 761.202(b)(2)(i) prohibits transportation of PCB waste without having received an EPA identification number from EPA. ELG transported one (1) 116 gallon Westinghouse Inerteen PCB Transformer (Serial Number 654384Z) from the School to its ELG facility located at 10909 McBride Lane, Knoxville, Tennessee 37923 without obtaining an EPA identification number. Therefore, the EPA alleges that one or more of the parties may have violated 40 C.F.R. § 761.202(b)(2)(i).

III. Failure to obtain an EPA identification number before commercial storage of PCB waste.

40 C.F.R. § 761.202(b)(3) prohibits commercial storage of PCB waste without having received an EPA identification number from EPA. ELG stored one (1) 116 gallon PCB Westinghouse Inerteen Transformer (Serial Number 654384Z) at its facility located at 10909 McBride Lane, Knoxville, Tennessee 37923 for at least three (3) months, without an EPA identification number. Therefore, the EPA alleges that one or more of the parties may have violated 40 C.F.R. § 761.202(b)(3).

IV. Illegal disposal of PCB waste

40 C.F.R. § 761.50(a)(4) states that spills and other uncontrolled discharges of PCBs at concentrations of greater than or equal to 50 parts per million constitutes the disposal of PCBs and must be done in accordance with subpart D of this part. The 116 gallon Westinghouse Inerteen PCB Transformer (Serial Number 654384Z), stored in ELG's storage yard located at 10909 McBride Lane, Knoxville, Tennessee 37923, was noticed to be leaking on May 11, 2016. Because the PCB Transformer contained oil with PCB concentrations > 50 ppm, the spill and uncontrolled discharge constituted improper disposal of PCBs. Therefore, the EPA alleges that one or more of the parties may have violated 40 C.F.R. § 761.50(a)(4).